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प्राधिकार से प्रकाशित
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सं. 8] नई दिल्ली, फरवरी 19—फरवरी 25, 2023, शनिवार/ माघ 30—फाल्गुन 6, 1944
No. 8] NEW DELHI, FEBRUARY 19—FEBRUARY 25, 2023, SATURDAY/ MAGHA 30—PHALGUNA 6, 1944

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)

नई दिल्ली, 21 फरवरी, 2023

का.आ. 237.— बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक की अनुशंसा पर, 12 सितम्बर, 2020 को भारत के राजपत्र, भाग II, खंड 3, उप-खंड (ii) में प्रकाशित वित्तीय सेवाएं विभाग, वित्त मंत्रालय, भारत सरकार की 9 सितम्बर, 2020 की अधिसूचना संख्या का.आ.755 में निम्नलिखित संशोधन करती है, नामतः:-

उक्त अधिसूचना में “सरकारी राजपत्र” शब्दों से आरंभ हो रहे तथा “शेयर धारण करने से हैं” से समाप्त हो रहे भाग को निम्नलिखित से प्रतिस्थापित किया जाएगा, नामतः:-

“9 सितम्बर, 2023 से एक वर्ष की अवधि के लिए अथवा इसके प्रतिसंहरण तक, जो भी पहले हो, आईसीआईसीआई बैंक लिमिटेड पर लागू नहीं होंगे, जहां तक इसका संबंध आईसीआईसीआई लोम्बार्ड जनरल इंश्योरेंस कंपनी लिमिटेड की चुकता पूंजी के 30% से अधिक राशि का शेयर धारण करने से है।”

2. यह अधिसूचना 9 सितम्बर, 2023 से प्रवृत्त होगी।

[फा. सं. 7/16/2022-बीओए-1]

ज्ञानोतोष राय, अवर सचिव

टिप्पणी: 9 सितम्बर, 2020 की अधिसूचना संख्या का.आ. 755 को भारत के राजपत्र, भाग II, खंड 3, उप-खंड (ii) में 12 सितम्बर, 2020 को प्रकाशित किया गया था।

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 21st February, 2023

S.O. 237.—In exercise of the powers conferred by sub-section (1) of section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby makes the following amendments in the notification of the Government of India, in the Ministry of Finance, Department of Financial Services number S.O. 755 dated the 9th September, 2020, published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 12th September, 2020, namely:—

In the said notification, for the portion beginning with the words “the paid-up capital of” and ending with the words “whichever is earlier”, the following shall be substituted, namely:—

“the paid-up capital of ICICI Lombard General Insurance Company Limited for a period of one year with effect from 9th September, 2023 or till its revocation, whichever is earlier.”.

2. This notification shall come into force with effect from the 9th day of September, 2023.

[F. No. 7/16/2022-BOA.I]

JNANATOSH ROY, Under Secy.

Note: The notification number S.O. 755 dated the 9th September, 2020 were published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 12th September, 2020.

कार्मिक, लोक शिकायत और पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 5 जनवरी, 2023

का.आ. 238.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री राज कुमार भास्कर ठाकरे, अधिवक्ता को, दिल्ली विशेष पुलिस स्थापन, (केन्द्रीय अन्वेषण ब्यूरो) द्वारा संस्थित सीबीआई मामला सं. आरसी सं. 223 2021 ए 0003 में मुंबई के विभिन्न न्यायालयों में अभियोजन का संचालन करने के लिए, जिसके अंतर्गत तत्समय प्रवृत्त किसी विधि द्वारा स्थापित किसी अपील या पुनरीक्षण न्यायालय या भारत के उच्चतम न्यायालय के समक्ष उक्त मामले से उद्भूत किसी अपील, पुनरीक्षण या अन्य कार्यवाही भी है, पद ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए या मामले के निपटारा हो जाने तक, जो भी पूर्वतर हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा. सं. 225/17/2022-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**(Department of Personnel and Training)**

New Delhi, the 5th January, 2023

S.O. 238.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Rajkumar Bhaskar Thakare, Advocate as Special Public Prosecutor for conducting prosecution of CBI case RC No. 223 2021 A 0003, instituted by the Delhi Special Police Establishment (Central Bureau of Investigation), in various courts in Mumbai including appeal, revision or other proceeding arising out of the said case before any Appellate or Revision Court established under any law for the time being in force or before Supreme Court of India for a period of three years from the date of assumption of charge or till disposal of the case, whichever is earlier.

[F. No. 225/17/2022-AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

नई दिल्ली, 5 जनवरी, 2023

का.आ. 239.— केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री आर. मल्लैया, अधिवक्ता को, दिल्ली विशेष पुलिस स्थापन, (केन्द्रीय अन्वेषण ब्यूरो) द्वारा संस्थित, निम्नलिखित सारणी में यथा उल्लिखित मामलों के लिए अभियोजन का संचालन करने हेतु पद ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए या मामले के निपटारा हो जाने तक, जो भी पूर्वतर हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है, :-

सारणी

क्र.सं.	सीबीआई मामला आरसी सं.	न्यायालय का नाम
1.	आर.सी 14/ई/2013	न्यायिक मजिस्ट्रेट प्रथम श्रेणी, अंकोला, कर्नाटक
2.	आर.सी 17/ई/2013	न्यायिक मजिस्ट्रेट प्रथम श्रेणी, अंकोला, कर्नाटक
3.	आर.सी 19/ई/2013	न्यायिक मजिस्ट्रेट प्रथम श्रेणी, अंकोला, कर्नाटक
4.	आर.सी 20/ई/2013	न्यायिक मजिस्ट्रेट प्रथम श्रेणी, अंकोला, कर्नाटक
5.	आर.सी 21/ई/2013	न्यायिक मजिस्ट्रेट प्रथम श्रेणी, अंकोला, कर्नाटक
6.	आर.सी 8/ई/2013	न्यायिक मजिस्ट्रेट प्रथम श्रेणी, अंकोला, कर्नाटक
7.	आर.सी 9/ई/2013	न्यायिक मजिस्ट्रेट प्रथम श्रेणी, अंकोला, कर्नाटक

[फा. सं. 225/23/2022-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

New Delhi, the 5th January, 2023

S.O. 239.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri R. Mallaiah, Advocate as Special Public Prosecutor for conducting prosecution of the cases instituted by the Delhi Special Police Establishment (CBI), as mentioned in the Table below, for a period of three years from the date of the assumption of charge or till disposal of the case, whichever is earlier :-

TABLE

Sl. No.	CBI Case RC No.	Name of the Court
1	RC 14/E/2013	Judicial Magistrate First Class, Ankola, Karnataka
2	RC 17/E/2013	Judicial Magistrate First Class, Ankola, Karnataka
3	RC 19/E/2013	Judicial Magistrate First Class, Ankola, Karnataka
4	RC 20/E/2013	Judicial Magistrate First Class, Ankola, Karnataka

5	RC 21/E/2013	Judicial Magistrate First Class, Ankola, Karnataka
6	RC 8/E/2013	Judicial Magistrate First Class, Ankola, Karnataka
7	RC 9/E/2013	Judicial Magistrate First Class, Ankola, Karnataka

[F. No. 225/23/2022—AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

नई दिल्ली, 9 जनवरी, 2023

का.आ. 240.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री पार्थसारथी आनंद स्वरूप पति, अधिवक्ता को झारखण्ड उच्च न्यायालय, रांची के समक्ष दिल्ली विशेष पुलिस स्थापन (केन्द्रीय अन्वेषण ब्यूरो) द्वारा संस्थित किए गए मामलों से उद्भूत अपील, पुनरीक्षण तथा अन्य विषयों और उनसे संबंधित या उनके आनुषंगिक मामलों के अभियोजन का संचालन करने के लिए उनकी नियुक्ति की तारीख से तीन वर्षों की अवधि के लिए या अगले आदेश तक, जो भी पूर्वतर हो, विशेष लोक अभियोजक नियुक्त करती है।

[फा. सं. 225/32/2021-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

New Delhi, the 9th January, 2023

S.O. 240.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Parthsarthy Anand Swaroop Pati, Advocate as Special Public Prosecutor for conducting prosecution, appeal, revision and other matters arising out of the case instituted by the Delhi Special Police Establishment (Central Bureau of Investigation), and for matters connected therewith or incidental thereto, before the High Court of Jharkhand, Ranchi for a period of three years from the date of appointment or until further order, whichever is earlier.

[F. No. 225/32/2021—AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(खाद्य और सार्वजनिक वितरण विभाग)

नई दिल्ली, 21 फरवरी, 2023

का.आ. 241.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग) के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को राजपत्र में अधिसूचित करती है:-

1. : केन्द्रीय भंडारण निगम
आई.सी.डी., पटपड़गंज
दिल्ली-110096

[फा. सं. ई-11011/1/2008-हिन्दी(321924)]

राजेन्द्र कुमार, संयुक्त सचिव

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Food and Public Distribution)**

New Delhi, the 21st February, 2023

S.O. 241.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (use for official purpose of the Union) Rules, 1976, the Central Government hereby notifies the following office under the administrative control of the Ministry of Consumer Affairs, Food & Public Distribution (Department of Food & Public Distribution), whereof more than 80% of staff have acquired the working knowledge of Hindi:

1. : Central Warehousing Corporation
ICD, Patparganj
Delhi-110096

[F. No. E-11011/1/2008-Hindi(321924)]

RAJENDER KUMAR, Jt. Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 8 फरवरी, 2023

का.आ. 242 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक और अन्य, नेशनल इंस्टीट्यूट ऑफ फार्मास्युटिकल एजुकेशन एंड रिसर्च, मोहाली (पंजाब); प्रबंध निदेशक, मेसर्स सांची सिक्योरिटी कंपनी प्राइवेट लिमिटेड, चंडीगढ़ के प्रबंधन के संबंध में नियोजकों और श्री गुरमेल सिंह, कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-1 चंडीगढ़ के पंचाट (संदर्भ सं. 133/2013) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07/02/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-55-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 8th February, 2023

S.O. 242.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 133/2013) of the Central Government Industrial Tribunal cum Labour Court -1, Chandigarh, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Director and another, National Institute of Pharmaceutical Education and Research, Mohali (Punjab); The Managing Director, M/s Sanchi Security Company Private Ltd., Chandigarh and Shri Gurmail Singh, Worker which was received along with soft copy of the award by the Central Government on 07/02/2023.

[No. L-42025/07/2023-55- -IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

**CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, PRESS DEPOT
BUILDING, 2RD FLOOR, SECTOR 18, CHANDIGARH.**

ID No. 133/2013**Registered on:-13.12.2013**

(Directly Filed under Section 2-A)

Gurmail Singh S/o Sh. Phuman Singh, Unskilled Mali, Resident of Village

and Post Office Mataur, Tehsil and District Mohali

....Appellant

Vs.

National Institute of Pharmaceutical Education and Research,
S.A.S. Nagar, District Mohali (Punjab) through its Director and another

M/s Sanchi Security Company Private Ltd. SCO No.358,
Sector 44-D, Chandigarh through its Managing Director Col. A. Malhi

....Management

Appearance:-

For the Workman -	Sh. R.P. Rana AR for Workman
For Respondent No.1-	Sh. P.K. Mutneja AR for Respondent No.1
For Respondent No.2-	None for Respondent No.2

AWARD

Passed On:-01.11.2022

1. The workman has directly filed this claim petition under Section 2-A of the Industrial Disputes Act, 1947, in pursuance of the certificate issued by the Assistant Labour Commissioner, (Central) Chandigarh, dated 12.09.2013. The workman has filed demand notice U/s 2-A, of the Industrial Disputes Act, 1947 in regard to illegal termination by the Respondent with prayer for reinstate into service, with full back wages along with consequential benefit.

2. Heard both the parties and perused the record.

3. Respondent has moved an application through AR Sh. Pawan Kumar Mutneja Ld. Advocate with Sh. V.S. Mahal, with affidavit with the prayer that present application be allowed and Tribunal be pleased to dismiss the present reference, on the ground that three persons, namely, Satnam Singh, Avtar Singh and Hari Ram had preferred different writ petitions bearing CWP No.5949 of 1999, CWP No.7930 of 1999 and CWP No.6645 of 1999 respectively. These writ petitions were dismissed on 30.10.2012 by the Hon'ble High Court. They then moved an application for modification of the above-said order, which was disposed on 01.02.2013 and copies of the orders dated 30.10.2012 and 01.02.2013 passed by Hon'ble High Court are annexed. Moreover liberty was given only to the three petitioners, who had preferred the writ petitions. The demand notice has been preferred by persons other than the said three persons. Even the demand notice was not maintainable. Section 2A of the Industrial Disputes Act was amended in the year 2010 w.e.f. 15.09.2010. It has also been stated in the application that amended Section 2A of the I.D. Act for the first time gave a limitation to the controversy. Limitation period is only three years.

4. The present reference is not maintainable on account of limitation and Tribunal could not have entertained the application for reference. Moreover, the present reference was not maintainable on account of delay and laches. As per the applicant, his service came to an end in the year 1999. The present reference has been made after a period of 14 years by moving an application before this Hon'ble Court in the year 2013. The reference itself is not maintainable on account of delay and laches. Furthermore, it has also been stated that the applicant itself alleges that he was employee of the Contractor and as such the Contractor has not been impleaded as a party. Thus, the present reference deserves to be dismissed.

5. Reply has been filed on behalf of the workman to application dated 08.01.2019, filed by Respondent No.1. It has been stated that contention of para is wrong and hence, denied that only three persons have preferred writ petition. However CWP 5949 of 1999 was filed by 44 workers and CWP 7930 was filed by 5 workers including present workman. Thus contention made in this para is wrong and denied that only liberty was given to three workers. Moreover in view of judgment of Hon'ble Supreme Court of India in the case of Steel Authority of India V/s National Union Waterfront Workers (2001) ACC1 liberty was given by Hon'ble High Court of Punjab and Haryana in the above mentioned CWP vide order dated 01.02.2013 to the workers to have a remedy as in the decision of the Supreme Court. It has also been stated that, the demand notice was not maintainable in view of amendment made in Section 2A of I.D. Act w.e.f 15.09.2010. However, it is submitted that workers apprehending their termination and for regularisation of their service filed CWP No.5949 and CWP NO.7930 of 1999 before Hon'ble High Court which was taken up for hearing on 05.05.1999 in which notice was issued to the respondents for 01.09.1999. On 14.05.1999 when the respondent No.1 received notice from Hon'ble High Court he did not allowed workman and others to enter the gate of NIPPER and thus orally terminated the service of the

workman along with other Not only this, against illegal action workers also approached to labour Inspector Mohali on 15.05.1999 who informed to the workers on 18.05.1999 that your complaint will be filed before the ALC (Central) Sector 9, Chandigarh and thus workers approached ALC (Central) Sector-9, Chandigarh by filing complaint that since workers have filed writ petitions regarding regularization of their service against respondents before Hon'ble High Court. Additionally, parties to await the decision of Hon'ble High Court, copy of the order dated 28.05.1999 passed by ALC (Central) Sector 9, Chandigarh is annexed. Therefore, there is no delay in filing demand notice in view of facts and circumstances explained above. It is also stated that the application filed by the respondent No.1 /management may kindly be dismissed with cost of view of the facts and submission.

6. The workman Gurmail Singh S/o Sh. Phuman Singh has engaged as Unskilled Mali on 01.12.1995 by the Institute being shown to be engaged by the Contractors his services was terminated orally on 14.05.1999. It is admitted fact that the workman has filed this case on 13.12.2013 in this Tribunal. As per provision of Industrial Disputes Act 1947, vide amendment which was inserted by Act No.24 of 2010 Section 3 with effect from 15.09.2010, new provisions has been added as follows:-

“The application referred to in Sub-Section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service of specified in sub-Section (1)”.

7. The services of workman was terminated admittedly on 14.05.1999 and case has been filed on 13.12.2013, which is not within limitation period of three years. As such this Tribunal have no power to condone the delay. Application of the opposite party is liable to be allowed. Accordingly, the case is time barred and the claim is declined and rejected as time barred.

8. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

J. K. TRIPATHI, Presiding Officer

नई दिल्ली, 17 फरवरी, 2023

का.आ. 243.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, अखिल भारतीय आयुर्विज्ञान संस्थान, भोपाल, मध्य प्रदेश, के प्रबंधन के संबद्ध नियोजकों और श्री विजय बलदे, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. CGIT/LC/R/62/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17/02/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-67--आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th February, 2023

S.O. 243.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/62/2019) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Director, All India Institute of Medical Sciences, Bhopal, Madhya Pradesh, and Shri Vijay Balde, Worker, which was received along with soft copy of the award by the Central Government on 17/02/2023.

[No. L-42025/07/2023-67-IR (DU)]

D. K. HIMANSHU, Under Secy.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM -LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/62/2019

Present: P.K.SRIVASTAVA, H.J.S.(Retd.)

Shri Vijay Balde,
E-8/19, Commercial Area,
Pragya Sagar Apartment,
Trilanga, Bhopal – 462039.

....Workman

Versus

Director,
All India Institute of Medical Science,
Saket Nagar, Bhopal,
Madhya Pradesh – 495689

....Management

AWARD

(Passed on this 30th day of September-2022)

1. As per letter dated 15/10/2019 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. J-1(1-2)/2019-IR. The dispute under reference relates to:

“Whether the action of the management of M/s Isha Protectional Security Guard Pvt. Ltd. Bhopal (working in the Establishment of M/s AIIMS, Bhopal) in terminating the services of workman Shri Vijay Balde w.e.f 25.10.2018 is legal, just and proper? If not, to what relief the concerned workman Shri Vijay Balde is entitled to?”

2. After registering the case on the basis of reference, notices were sent to the parties and were served on them. Ist party workman failed to appear and participate in reference proceeding despite of repeated notices. 2nd party management appeared but did not file any Written Statement.

3. Since the initial burden to prove claim is on workman in which he has failed, reference deserves to be answered against him and is answered accordingly.

4. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P.K.SRIVASTAVA, PRESIDING OFFICER

DATE: 30-09-2022

नई दिल्ली, 17 फरवरी, 2023

का.आ. 244 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य महाप्रबंधक, दूरसंचार, म.प्र. परिमण्डल, होशंगाबाद रोड, भोपाल ; टी.डी.ई., ब्यावरा, राजगढ़ (म.प्र.), के प्रबंधन के संबद्ध नियोजकों और श्री निसार अहमद, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. CGIT/LC/R/61/2001) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17/02/2023 को प्राप्त हुआ था।

[सं. एल-40012/76/2000-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th February, 2023

S.O. 244.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/61/2001) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief General Manager, Telecom, M.P. Circle, Hoshangabad Road, Bhopal; The T.D.E., Biaora, Rajgarh-(M.P.) and Shri Nisar Ahmed, Worker, which was received along with soft copy of the award by the Central Government on 17/02/2023.

[No. L-40012/76/2000-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/61/2001****Present:** P. K. Srivastava, H.J.S..(Retd)

Sh. Nisar Ahmed
S/o Abdul Ajij
R/o Kurawar Mandi,
District Rajgarh(MP)

.... Workman

Versus

The Chief General Manager,
Telecom, M.P.Circle,
Hoshangabad Road, Bhopal-462001.

2. The T.D.E.,
Rajgarh at Biaora,
Rajgarh(M.P.)

... Management

AWARD**(Passed on 26-7-2022)**

As per letter dated 27-3-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/76/2000-IR(DU). The dispute under reference relates to:

“Whether the action of the Management of Chief General manager, Telecom in terminating the services of Sh. Nisar Ahmed S/o Sh. Abdul Ajij w.e.f. September-1991 is justified? If not, to what relief the workman is entitled.”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defence.

2. The case of the workman as stated in his statement of claim is that he was engaged as a helper by Management in the year 1987 and continued till September-1991 when his services were terminated by the Management without any notice or compensation though he worked for more than 240 days continuously in every year including the year preceding the date of his termination. Thus his termination is violative of Section 25F of the Industrial Disputes Act, 1947. The workman has prayed that setting aside his termination, he be reinstated with back wages and benefits.

3. According to the management, the workman was engaged as a casual labour in the year 1987 by Management for specific period and specific work, with a condition that his services has come to an end automatically after completion of the work. He was not engaged on regular basis, against any vacant sanctioned post or by following rules and procedure of recruitment. He never worked for 240 days or more continuously in any year including the year preceding the date of his termination, hence, his dis-engagement without notice or compensation is not against law. The management has prayed that the reference be answered against the workman.

4. The Workman has filed his affidavit as his examination-in-chief. He has proved his Employment Exchange Card as Exhibit W-1. He has not been cross-examined by the Management. The management has

filed earlier affidavit of Rajmani Khan S.D.E. Administration and Ramgopal Sinsinwar SDE Legal but could not produce them for cross-examination, hence ultimately filed Affidavit of its witness Mohd. Feroz Ahmed , Assistant General Manager Legal and has been cross-examined by the workman.

5. I have heard arguments of Shri Arun Patel, learned counsel for the workman. None was present from the side of the Management. They were given opportunity to file written Argument, which they did not avail . I have gone through the record.

6. The reference is the issue for determination in the case in hand.

7. Before entering into any discussion on merit, Section 25B and Section 25F of the Industrial Disputes Act, 1947 is required to be produced here:-

Section 25 B:-

Definition of continuous service.-

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman; (2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer- (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than- (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and (ii) two hundred and forty days, in any other case; (b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than- (i) ninety-five days, in the case of a workman employed below ground in a mine; and (ii) one hundred and twenty days, in any other case.

25F. Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice: 1[***] (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2[for every completed year of continuous service] or any part thereof in excess of six months; and (c) notice in the prescribed manner is served on the appropriate Government 3[or such authority as may be specified by the appropriate Government by notification in the Official Gazette.]

8. The initial burden to prove his continuous engagement for 240 days or more in any year lies on the workman. The workman has examined himself and has stated that he worked for 240 days in every year till the date of his termination. He has not been cross-examined by Management. On the other hand, the Management witness, though has stated in his cross-examination in form of affidavit that the workman never worked continuously for 240 days or more in any year but in his cross-examination, he admitted that he was never posted in the office where the workman worked. He never saw the muster roll for the said period. He further states that he has prepared his affidavit on the basis of earlier affidavit kept in the file. Also that he did not produce any document to support that the workman had worked continuously for 240 days or more in any year .

9. Learned Counsel for the workman has referred to judgment of Hon. The Apex Court in the case of **Director Fisheries Terminal Division Vs. Bhikubhai Meghajibhai Chavda** AIR(2010) SC 1236 wherein it has been held that the workman was engaged on daily wage basis and he would have difficulty in accessing the office documents like muster roll etc. when the workman claims and disposes that he has worked for 240 days the burden shifts to employer to prove that he did not work for 240 days or more in that year.

10. In another judgment **Gauri Shanker Vs. State of Rajasthan**(2015) 12 SCC 754, it has been held by Hon'ble the Apex Court that withholding of documents i.e. muster roll by the employer may result into drawing adverse inference against the Management. In the light of law laid down by Hon'ble the Apex Court in the case cited above, the claim of the workman that he continuously worked for 240 days and more in every year

including the year of his dis-engagement is held proved. Admittedly since no notice or compensation was given at the time of dis-engagement, the termination of the workman is held violative of the Section 25F of the Act.

11. In the light of the finding recorded above, the question arises as to what relief the workman is entitled since the workman was not appointed following any recruitment procedure against sanctioned vacancy, his reinstatement will not be legally admissible remedy. Accordingly he is held entitled to compensation keeping in view the tenure of his engagement and other facts and circumstances mentioned here in the case in hand, a lump sum compensation in lieu of his claims computed at Rs.50,000/- (Rupees Fifty Thousand only) will meet the ends of justice to which the workman is held entitled to recover within 30 days from the date of notification of the Award in official gazette failing which interest @ 6% per annum from the date of publication of Award till the date of receipt of Award.

12. On the basis of the above discussion, following award is passed:-

A. The action of the management "of Chief General Manager, Telecom in terminating the services of Sh. Nisar Ahmed S/o Sh. Abdul Ajij w.e.f. September-1991 is held to be unjustified.

B. The workman is held entitled to a lump sum compensation in lieu of his claims computed at Rs.50,000/- (Rupees Fifty Thousand only) to which the workman is held entitled to recover within 30 days from the date of notification of the Award in official gazette failing which interest @ 6% per annum from the date of publication of Award till the date of payment.

13. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 26-7-2022

नई दिल्ली, 17 फरवरी, 2023

का.आ. 245 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वरिष्ठ डाकघर अधीक्षक, खटीकपुरा, इंदौर (म.प्र.), के प्रबंधन के संबद्ध नियोजकों और महासचिव, मध्य प्रदेश राष्ट्रीय मजदूर कांग्रेस (आई.टी.यू.सी.), टी.टी. नगर, भोपाल (म.प्र.), के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. CGIT/LC/R/82/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17/02/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-68-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th February, 2023

S.O. 245.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/82/2019) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Sr. Superintendent of Post Office, Khatikpura, Indore (M.P.) and The General Seceretary, Madhya Pradesh Rashtriya Mazdoor Congress, (ITUC), TT Nagar, Bhopal (M.P.), which was received along with soft copy of the award by the Central Government on 17/02/2023.

[No. L-42025/07/2023-68-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM -LABOUR COURT,
JABALPUR
NO. CGIT/LC/R/82/2019

Present: P. K. SRIVASTAVA, H.J.S..(Retd)

The Madhya Pradesh Rashtriya Mazdoor Congress(ITUC)

Through: General Seceretary, 312, Lucky Plaza

2nd Floor, TT Nagar, Bhopal(M.P.)-462003.

... Workman

Versus

The Sr. Superintendent of Post Office,

109, Mahatma Gandhi road,

Khatikpura,

Indore (M.P.)-452003.

... Management

AWARD

(Passed on this 16th day of August-2022)

As per letter dated 28-11-2019 by the Government of India, Ministry of Labour & Employment, Office of the Deputy Chief Labaour Commissioner (Central), Block No.10, Civil Centre, Marhatal, Jabalpur (M.P.), the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. F. No. J-1(1-16)/2019-IR. The dispute under reference relates to:

“Kya Pravar Adheekshak, Dakghar, Indore Shehar Mandal, Inore dwara Shri Ritesh Lashkari evam 44 anya(Pareshesht B ke anusar)karya se band kiye jaana(karya se prethak keye jaane)evam maah April 2019 ka vetanman bhugtan na kiya jaana uchhit hai?Yadi nahi to kya kaamgar Apne purv ke karya par use stithi mein maah april 2019 ko vetan sahet neyojan tatha sambandhit anutosh paane ka adhikari hai?” .”

1. After registering the case on the basis of reference, notices were sent to the parties. Inspite of service of notice the workman did not appear. He did not file any written statement of claim.

2. The management filed vakalatnama of Advocate Shri S.K.Mishra and Shri Manoj Singh but did not file any statement of defense, inspite of much time given.

3. Since the initial burden to plead and prove their case is on the workmen. They have not filed any evidence in this respect. The reference deserves to be answered against the workmen, holding their claim not proved and is answered accordingly.

4. On the basis of the above discussion, following award is passed:-

A.The action of the management as mentioned in the reference is held just and proper.

B. The workmen are held entitled to no relief.

5. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 16-8-2022

नई दिल्ली, 17 फरवरी, 2023

का.आ. 246 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, अखिल भारतीय आयुर्विज्ञान संस्थान, भोपाल, मध्य प्रदेश, के प्रबंधन के संबद्ध नियोजकों और श्री चंद्रकांत मोहितकर, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. CGIT/LC/R/63/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17/02/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-66-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th February, 2023

S.O. 246.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/63/2019) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Director, All India Institute of Medical Sciences, Bhopal, Madhya Pradesh, and Shri Chandrakant Mohitkar, Worker, which was received along with soft copy of the award by the Central Government on 17/02/2023.

[No. L-42025/07/2023-66-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM- LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/63/2019****Present:** P. K. SRIVASTAVA, H.J.S.(Retd.)

Shri Chandrakant Mohitkar, Artist,
56, Adhyapak Layout,
Hingana Road, Nagpur,
Maharashtra – 440036.

... Workman

Versus

Director,
All India Institute of Medical Science,
Saket Nagar, Bhopal,
Madhya Pradesh – 495689

... Management

AWARD**(Passed on this 30th day of September-2022)**

1. As per letter dated 15/10/2019 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. J-1(1-3)/2019-IR. The dispute under reference relates to:

“Whether the action of the management of M/s Isha Protectional Security Guard Pvt. Ltd. Bhopal (working in the Establishment of M/s AIIMS, Bhopal) in terminating the services of workman Shri Chandrakant Mohitkar w.e.f 20.12.2018 is legal, just and proper? If not, to what relief the concerned workman Shri Chandrakant Mohitkar is entitled to?”

2. After registering the case on the basis of reference, notices were sent to the parties and were served on them. 1st party workman failed to appear and participate in reference proceeding despite of repeated notices. 2nd party management appeared but did not file any Written Statement.

3. Since the initial burden to prove claim is on workman in which he has failed, reference deserves to be answered against him and is answered accordingly.

4. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 30-09-2022

नई दिल्ली, 17 फरवरी, 2023

का.आ. 247.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सदस्य सचिव, रेशम बोर्ड, कपड़ा मंत्रालय, सरकार भारत सरकार, सीएसबी कॉम्प्लेक्स, बेंगलूर; निदेशक, केन्द्रीय रेशम बोर्ड, कपड़ा मंत्रालय, सरकार ऑफ इंडिया, रांची, झारखंड; सहायक निदेशक, केन्द्रीय तसर अनुसंधान प्रशिक्षण संस्थान, (विस्तार केंद्र), केन्द्रीय रेशम बोर्ड, कटघोरा, जिला कोरबा के प्रबंधन के संबद्ध नियोजकों और श्री मंगल राम, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. CGIT/LC/ R/112/2004) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/272/2003-आईआर (सीएम-II)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th February, 2023

S.O. 247.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/ R/112/2004) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Member Secretary, Silk Board, Ministry of Textile, Govt. of India, C.S.B.Complex, Bangalore; The Director, Central Silk Board, Ministry of Textile, Govt. Of India, Ranchi, Jharkhand; The Assistant Director, Central Tasar Research Training Institute, (Extension Centre), Central Silk Board, Katghora, District Korba, and Shri Managal Ram, Worker, which was received along with soft copy of the award by the Central Government on 17/02/2023.

[No. L-42012/272/2003-IR(CM-II)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, JABALPUR

NO. CGIT/LC/R/112/2004

Present: P. K. SRIVASTAVA, H.J.S..(Retd)

Shri Managal Ram
S/o Shri Baula Ram
Village Rampur, Via Katghora
Korba-Chhattisgarh.

... Workman

Versus

1. The Member Secretary,
Silk Board, Ministry of Textile,
Govt. of India, C.S.B. Complex
B.T.M. Lay Out, Medivala,
Bangalore-560068
2. The Director,
Central Silk Board,
Ministry of Textile, Govt. Of India
Village & PO Piska Nagadi,
District Ranchi, Jharkhand.
3. The Assistant Director,
Central Tasar Research Training Institute,
(Extension Centre), Central Silk Board,
Village & PO Katghora, District Korba

....Management

AWARD**(Passed on 15-7-22.)**

As per letter dated 8/11/2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-42012/272/2003-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of Central Tasar Research and Training Institute(under Silk board) in terminating the services of Shri Mangal Ram, S/o Shri Baula Ram and regularising the services of his juniors, overlooking his seniority is legal and justified?if not, to what relief the workman is entitled to? .”

1. After registering the case on the basis of reference, notices were sent to the parties.
2. The case of the workman as stated in his statement of claim is that he was working in Rampur farm under the management Central Silk Board under NA/OP No.3 since 1980, OP No.3 is under direct control of OP NO.1 & 2 and on their instructions, he was engaged by OP No.3 for working for so many years. Every year, the management collected EPF subscriptions from the wages regularly till 2001 but never supplied EPF slips except a few slips that too reluctantly. Being in service of the management since 1980 till 2001. The workman claimed regularization but terminated the services of the applicant workman orally under the oral order. The workman raised a reference before ALC(C) Bilaspur on 16-1-2003. After FOC, reference was made by Appropriate Authority to this court. According to the workman, he worked for a period of more than 240 days in continuous employment of the management even in the year preceding his date of termination. No enquiry was held by management before his disengagement. He was not given any notice or compensation before his disengagement hence his disengagement is against law. Workman is unemployed since then. Accordingly workman has prayed for his reinstatement with all back wages and benefits as well as regularization setting aside his termination.
3. The case of the management as taken in their joint written statement of defence is that in view of the activities carried out by the management, it is not an industry as defined under Section 2(j) of the Act. hence the reference is not maintainable as such before this Tribunal. Basic Seed Multiplication and Training Centres (BSM & TC), set up by management conduct rearing and seed preparation activities. Such seasonal activities generally run for 45-50 days in one spell and whole of the year it extends upto more than 150 or 180 days in 3 spells in any year. For this seasonal work, the basic seed multiplication and training centers (BSM & TC) engaged seasonal workers on rotation basis on the basis of availability. They are discontinued from work after the season is over. These workers are neither terminated nor retrenched but are kept on panel and are called for work during seasons for limited period according to requirement. The workman was never appointed against the post but only was engaged to do seasonal work as mentioned above. Hence his termination is not bad in law as his case falls under Section 2(oo)(bb) of the Act, also it has been pleaded that in the light of decision of Supreme Court in the State of MP and others versus Lalit Kumar Verma 2007(1)SCC 575 & State of Karnataka Vs Umadevi 2006(4)SCC-1 the reference be answered against the workman.
4. In his rejoinder, the workman has mainly denied the case of management in its Written Statement of defence and has alleged that the management is an industry as defined under Section 2(j) of the Act. The disengagement of workman is violative of Section 25-F of the Act hence illegal and arbitrary.
5. At the stage of evidence, workman Shri Lalsingh examined himself as witness. He was cross-examined by management.
6. Management has filed affidavit of its witness but did not produce him for cross examination on various dates granted for this. hence closing the evidence of management, argument from both the sides were heard and records have been perused by me.
7. From perusal of record in the light of rival argument, following issues come up for determination in this case:-

- (1) Whether the OP management is industry as defined in Section 2(j) of the Industrial Dispute Act?**
- (2) Whether the action of the management in terminating the services of applicant workman and regularizing the services of his juniors overlooking his seniority is justified in law and fact.**
- (3) Whether the workman is entitled to any relief or not?**

8. Issue No.1-

Before entering into merits on this point, Industry as defined under Section 2(j) of the Act is being reproduced as follows:-

“INDUSTRY” MEANS ANY BUSINESS, TRADE, UNDERTAKING, MANUFACTURE OR CALLING OF EMPLOYERS AND INCLUDES ANY CALLING, SERVICE, EMPLOYMENT, HANDICRAFT, OR INDUSTRIAL OCCUPATION OR AVOCATION OF WORKMEN.

9. Though the learned counsel for management has submitted that the management is not an industry as defined in the Act but I am not inclined to accept his argument on the ground that firstly the activities of the institute are integrated and it does not come under the exemptions to Section 2(j). In the light of principle of laid down above by the constitution bench of Hon. Supreme Court in **Bangalore Water Works Vrs A.Rajappa** Case- 1978 AIR 548, 1978 SCR (3) 207, OP No.3 is held industry in the Act. **Issue No.1 is answered accordingly.**

10. **Issue No.2-** Before entering into any discussion on merits on this point, some legal provisions are being reproduced.

Section 2(oo)

“Retrenchment” means the termination by the employer of the service of workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include- (a) voluntary retirement of the workman; or (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

Section 2 (bb)-

termination of the service of the workman as a result of the on-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or] (c) termination of the service of a workman on the ground of continued ill-health;

Section 25 B:-

Definition of continuous service.- For the purposes of this Chapter,-- (1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer-

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than- (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and (ii) two hundred and forty days, in any other case; (b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than- (i) ninety-five days, in the case of a workman employed below ground in a mine; and (ii) one hundred and twenty days, in any other case.

25F. Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2[for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government 3[or such authority as may be specified by the appropriate Government by notification in the Official Gazette.]

25G. Procedure for retrenchment.- Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

25H. Re-employment of retrenched workmen.- Where any workmen are retrenched and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity 2[to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen] who offer themselves for re-employment shall have preference over other persons.

Thus as it is evident from the legal provisions referred to above, that the workman will have to prove that he was engaged by management and was in continuous employment for a period of 240 days or more in the year preceding the date of his termination.

11. Learned counsel for management has submitted that the reference is vague in itself as it does not mention the date of termination of workman. True it is that date of termination of workman is not mentioned in the reference resulting into complications in deciding the factum of continuous employment in the year preceding the date of termination of workman but as the case is pending since 2004 and this point has been raised at this stage, justice requires that help of pleadings be sought on this point because it is not justice to punish the workman for a fault which he has not committed. According to the workman, he was terminated in the year 2001 as is stated in his statement of claim in Para-2. He also does not disclosed the date of his termination in his pleadings. The case of management is that workman was simply engaged for short period due to contingency of work on casual basis, hence there was no question of his termination.

12. In his affidavit on oath, workman has stated that he was first engaged in 1980 and remained in continuous employment till 15-7-99. He was terminated on 16-7-99

13. Learned counsel has referred to case J.Yashoda Vs. K.Sobharani 2007(5)SCC-730, Kamla Devi Vs Vandana 2016(2)MPLJ-324. On this point wherein it has been held that for adducing secondary evidence, it is necessary for the party to prove existence and execution of original documents and conditions laid down in Section 65 must be fulfilled before secondary evidence can be admitted. Learned counsel for workman has submitted that the workman proved these photocopy documents under order of the Court dated 17-10-2016.

14. The settled principle of law is that strict rules of proof do not apply in cases/ proceedings under Industrial Dispute Act and Industrial Dispute (Central Rules) 1957 apply to the proceedings before Industrial Tribunals and Labour Courts. The cases referred to by learned counsel for management are not concerned with industrial adjudication. In spite of the fact that it is undisputed that the procedure regarding conducting of case and recording evidence as well as proof must conform to basic principles of natural justice and evidence as well as proof accepted universally. It is true that in the case in hand, there is nothing on record to show that the primary evidence was not available and the permission to prove by way of secondary evidence was granted by my learned predecessor only on the ground that strict rules of proof do not apply in such cases. But even if these records are perused keeping in view the fact that the fact in issue is whether the workman had completed 240 days in continuous employment of the management in the year preceding the date of his termination. These documents in all show that the workman had worked upto 1992-93 for which number of days in every year have been mentioned. Hence in such a situation, only the self serving statement of the workman which no where declares the exact date of his termination from service is not sufficient to hold that the workman had completed 240 days in continuous employment of the management in the year preceding the date of his disengagement. Accordingly it is held that continuous employment of the workman for a period of 240 days or more in the year preceding date of his termination is not proved. Hence his termination cannot be held violative of Section 25-F.

15. On the other hand the ground taken by workman in his statement of claim that juniors to him were regularized in service but there is no evidence on this point, hence on this ground also, the termination cannot be held as bad in law.

16. On the basis of above discussion, the termination of the workman is held justified in law and fact. **Point No.2 is answered accordingly.**

17. On the basis of the above discussion, following award is passed:-

A. The action of the management of Central Tasar Research and Training Institute (under Silk board) in terminating the services of Shri Mangal Ram, S/o Shri Baula Ram and regularising the services of his juniors, overlooking his seniority is held to be legal and justified.

B. The workman is held entitled to no relief.

18. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 15-7-2022

नई दिल्ली, 17 फरवरी, 2023

का.आ. 248 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अधीक्षण पुरातत्वविद्, भारतीय पुरातत्व सर्वेक्षण, नयापल्ली वीआईपी क्षेत्र, भुवनेश्वर सर्किल, भुवनेश्वर-(उड़ीसा); अधीक्षण पुरातत्वविद्, भारतीय पुरातत्व सर्वेक्षण, सं. जे/10, अनुपम नगर, रायपुर-(छ.ग.); सहायक संरक्षक, भारतीय पुरातत्व सर्वेक्षण, भरतनगर, बिलासपुर-(छ.ग.) के प्रबंधन के संबद्ध नियोजकों और श्री रूपेंद्र कुमार शर्मा, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर पंचाट (संदर्भ सं. CGIT/LC/ R/50/2006) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/124/2005-आईआर (सीएम-II)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th February, 2023

S.O. 248.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/ R/50/2006) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Superintending Archaeologist, Archaeological Survey of India, Nayapalli VIP Area, Bhubaneswar Circle, Bhubaneswar-(Orissa); The Superintending Archaeologist, Archaeological Survey of India, No. J/10, Anupam Nagar, Raipur-(Chhattisgarh); The Assistant Conservator, Archaeological Survey of India, Bharatiyanagar, Bilaspur-(C.G.) and Shri Roopendra Kumar Sharma, Worker, which was received along with soft copy of the award by the Central Government on 17/02/2023.

[No. L-42012/124/2005-IR (CM-II)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/50/2006****Present: P. K. SRIVASTAVA, H.J.S..(Retd)**

Shri Roopendra Kumar Sharma,
S/o Shri Sampat Prasad Sharma,
Village & PO Sildaha
Thana Patharia, Tehsil Mungeli,
Bilaspur (M.P.)

... Workman

Versus

The Superintending Archaeologist
Archaeological Survey of India
Nayapalli VIP Area, Bhubaneshwar Circle
Bhubaneshwar(Orissa).

2. The Superintending Archaeologist,
Archaeological Survey of India,
No.J/10, Anupam Nagar,
Raipur(Chhattisgarh).

3. The Assistant Conservator
Archaeological Survey of India,
Bharatiyanagar,
Bilaspur(C.G.)

....Management

AWARD**(Passed on 28-9-2022)**

As per letter dated 11-8-2006 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-42012/124/2005-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of Archaeological Survey of India in terminating the services of Shri Rupendera Kumar Sharma w.e.f. 3-9-2001 is legal and justified?if not,to what relief the workman is entitled?” .”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defence.

2. The case of the workman as stated in his statement of claim is that he was appointed as a Chowkidar under the Management on 7-11-2000 and worked continuously till 3-9-2001 when he was terminated under an oral order of management without any notice or compensation. He filed a petition before the Labour Court Bilaspur for his wages which was granted and he was paid wages for this period by the Management. According to the workman, he had attained permanent status by working for 240 days in every year, hence his termination is against law. It is further his case that the workman junior to him are still retained by management. Accordingly he has prayed that holding the action of Management terminating his services against law, he be held entitled to reinstatement with all back wages and benefits.

3. The case of the Management is mainly that he and other two workers were engaged for a very short period with usual object against specific conservation work and system. They were paid wages on the rates fixed by Labour Commissioner as per Minimum Wages Act. They were appointed as chowkidar. Their wages could not be paid in time due to administrative exigency which was paid later on under the orders of Labour Court. They were not appointed following the recruitment procedure against regular vacancy, hence their termination is not against law. Accordingly, it has been prayed that the reference be answered against the workman.

4. The workman has filed copy of judgment of Labour Court, money receipt of payment which has been paid to the applicant workman under the order of Labour Court. Workman Rupendra Kumar Sharma has examined himself as examination-in-chief. Opportunity of cross-examination was given to Management but they have not preferred to cross-examine the workman.

5. The Management has not filed any evidence.

6. I have heard arguments of learned counsel for workman and management and have gone through the record.

7. The Reference itself is the issue for determination in the case in hand.

8. There is an uncontroverted affidavit of the workman without any cross-examination stating that he worked from 7-11-2000 to 31-12-2001 as this statement is against his pleadings in his statement of claim wherein he has stated that he worked till 3-9-2001. The receipt regarding payment of wages to the workman filed by the workman himself Exhibit W-2 also states that he was paid wages from 6-11-2000 to 2-9-2001. The order of Labour Court also states the same facts in this respect. In absence of any evidence to counter the fact that the workman worked for 240 days in the year preceding the date of his termination continuously is held proved. Since no notice or compensation was given to him before his termination, his termination is held in violation of Section 25F of the Industrial Disputes Act, 1947

9. Since the workman was a daily wager, not appointed against regular vacancy following the recruitment procedure, he cannot be held entitled to be reinstated. Keeping in view the nature of his appointment and tenure of his work, he is held entitled to a lump sum compensation of Rs.30,000 from Management in lieu of all his claims payable to him by the Management within 30 days from the date of publication of Award in Official gazette, failing which interest @ 6% per annum from the date of publication till payment.

10. On the basis of the above discussion, following award is passed:-

A.The action of the management of Archaeological Survey of India in terminating the services of Shri Rupendera Kumar Sharma w.e.f. 3-9-2001 is held not legal and justified.

B.The workman is held entitled to a lump sum compensation of Rs.30,000 in lieu of all his claims payable to him by the Management within 30 days from the date of publication of Award in Official gazette, failing which interest @ 6% per annum from the date of publication till payment.

11. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 28-9-2022

नई दिल्ली, 17 फरवरी, 2023

का.आ. 249 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, क्षेत्रीय अनुसंधान प्रयोगशाला, हबीबगंज नाका, भोपाल-(म.प्र.) के प्रबंधन के संबद्ध नियोजकों और अध्यक्ष, आर.आर.एल. दैनिक वेतन भोगी कर्मचारी संघ, बाग मुगलिया, भोपाल (म.प्र.), के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर पंचाट (संदर्भ सं. CGIT/LC/R/39/2006) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/212/2005-आईआर (सीएम-II)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th February, 2023

S.O. 249.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/39/2006) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Director, Regional Research Laboratory, Habibganj Naka, Bhopal-(M.P.) and The President, R.R.L.Dainik Vetan Bhogi Karmachari Sangh, Bagh Mughalia, Bhopal (M.P.), which was received along with soft copy of the award by the Central Government on 17/02/2023.

[No. L-42012/212/2005-IR (CM-II)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM -LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/39/2006****Present:** P. K. SRIVASTAVA, H.J.S..(Retd)

The President,
R.R.L.Dainik Vetan Bhogi Karmachari Sangh
LIG-SR-541 Katara Hills,
Bagh Mughalia,
Bhopal (M.P.)

... Workman

Versus

The Director,
Regional Research Laboratory
Habibganj Naka
Bhopal (M.P.)

... Management

AWARD**(Passed on 14-11-2022.)**

As per letter dated 31/7/2006 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-42012/212/2005-IR(CM-II). The dispute under reference relates to:

“Whether the demand of Shri Awadhesh Kumar Sisodia for his reinstatement and issuing of appointment letters to him and 94 others(as per list enclosed) by the Regional Research Laboratory and declaration of them as permanent employees is legal and justified? If yes, to what relief they are entitled? .”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defense.

2. According to the workman Union, the Applicant workman No.1 who is also the President of the Union along other 94 applicant workmen are working continuously from the date of their first appointments for more than 240 days in every year and have attained the status of permanent employees. The Management did not Award them permanent status nor did the Management regularize their services. They formed an Association in the year 2004 and raised their demand but in order to desist the applicant workmen from raising their lawful demands the applicant workman No.1 who is also the President of the Association was orally terminated by the management. He raised a dispute in this respect, thereafter M/s Trio Securities and Intelligence Pvt. Ltd., Lajpat Nagar, New Delhi informed them that he has been terminated from Regional Research Laboratory i.e. Management No.1 and 2 to CMC. According to the Workman Union, they are employees of the Management of Regional Research Laboratory and not of any Security Agency. When a dispute was raised before the Assistant Labour Commissioner by workman Union, the Management took a stand that these workman are contractors employees which is factually incorrect. The workmen are engaged as helpers, peons, Technical Assistantants, Chowkidars, Gardeners, Waterman, Drivers, Lab Assistants, Sweepers, Plumber etc. by the

Management of Regional Research Laboratory. According to the workman Union the termination of the services of the applicant workman No.1 Awdhesh Kumar Sisodiya who is also the President of the Union is against law because no notice or compensation was given to him. Further the action of the Management in not classifying and declaring the applicant workman as their permanent employees is also against law. Accordingly, it has been prayed that the reference be answered in favour of the applicant workmen Union.

3. In its written statement of defense, the case of the management is firstly that the Management of Regional Research Laboratory is not an Industry under Industrial Disputes Act, 1947, hence the reference is not maintainable before this Tribunal. Secondly the workmen were not employed by the Management of Regional Research Laboratory, hence there is no question of their services by the management and their reinstatement. According to the Management, there is no relationship of workman and employer between the parties. Also it has been pleaded that the Union has no locus standi to raise the present dispute and that the present dispute has been raised only with a view to secure appointment through back door entry. According to the management, the applicant workmen are contractor employees engaged through contractor and Management has no role to play in this respect. Accordingly the Management has prayed that the reference be answered against the workman Union.

4. The Management has filed and proved documents, Exhibit M-1, letter of Director of the Management dated 31-10-2005 to Assistant Labour Commissioner seeking direction to contractor to obtain necessary license from Management in Contract Labour (Regulation & Abolition) Act, 1970. Exhibit M-2 is the certificate of Registration of contractors Exhibit M-3 is annual Report of Management as Principal Employer sent to Registering Office as per contract rules. Exhibit M-4 is Annexure of annual returns. Exhibit M-5 is work order dated 5-12-2006 to Contractor M/s Bharat Security Services for house keeping services in the laboratory. Exhibit M-6 to M-11 are job contracts for providing man power for horticulture, cleaning, guest house and canteen services issued to M/s Shramik Kalyan Samiti and M/s Bharat Security Services for the year 2005-2006. Exhibit M-12 is work agreement for cleaning with M/s Bharat Security Services executed in the year 2006 for one year. Exhibit M-13 to M-16 are letters awarding contract to M/s Bharat Security Services for house keeping, security services, horticulture services, cleaning, guest house and canteen services respectively. Exhibit M-18 is another letter by Director of the Management to the Assistant Labour Commissioner seeking direction to the Contractors to get necessary licences Exhibit M-18 to M-20 and Exhibit M-21, M-22, M-23 to M-30 are different documents of M/s Bharat Security Services showing that they deposited employees provident fund dues of their employees and raised bills in the year 2006-2007.

5. The Management has filed affidavit of its witness Shri S.K.Gupta, controller of Administration who never appeared for cross-examination, hence his affidavit cannot be read in evidence in support of management. The Management has filed another Affidavit of its witness Somnath Majumdar, Administrative Officer. He has been cross-examined by workman side. The Management has further examined its another witness Radheshyam Namdeo Waghmare, Administrative Officer, Hemant Kumar Malviya, Proprietor of M/s Bharat Security Services. These witness have also been cross-examined by the Workman Union.

6. The workman side has filed affidavit of 37 witness out of which only applicant workman witness Awdhesh Kumar Sisodiya, President of the Union Ramesh Chandra Rajkumar, Chandrakant Bhat, have cross-examined by management. Rest of the witness did not appear for the cross-examination. The workman Union has further filed job card for workshop Exhibit W-1 four papers and also filed I.D.cards, some photographs.

7. I have heard learned counsel for the workman Union Shri Ashok Shrivastav and Shri A.K.Shashi, learned counsel for the Management. I have gone through the record as well.

8. On perusal of record in the light of rival arguments, the following issues come up for determination, in the case in hand:-

(1) Whether the Management of Regional Research Laboratory is Industry as defines under Section 2J of the Industrial Disputes Act, 1947?

(2) Whether the workman Union has locus standi to raise the present dispute?

(3) Whether there exists a relationship of workman and employer between the applicant workman and Management of Regional Research Laboratory?

(4) Whether the action of Management in retiring the services of the applicant workman Awdhesh Kumar Sisodiya, the President of the Union is legal?

(5) Whether the applicant workman are entitled to be given status of permanent employee of the Management of Regional Research Laboratory?

9. ISSUE No.1:-

The learned Counsel for the management has submitted that the Regional Research Laboratory is not an Industry in Industrial Disputes Act, 1947. It is part and parcel of and is under regulation and control of Council of Scientific and Industrial Research which is an autonomous body and a Society registered under the Societies Registration Act. According to the learned counsel for Management, the Regional Research Laboratory is involved in High level research activities of no profit basis in the area of fibre technology, waste utilization, design capability and other related activities. The learned Counsel has further submitted that the question whether the Council of Scientific and Research CSIR as well as its subsidiaries are Industry as defined under Section 2J of the Industrial Disputes Act, 1947 is referred to larger Bench of Hon'ble the Apex Court which is pending hence on this ground also the management of Regional Research Laboratory cannot be held to be an Industry under Section 2J of the Act.

10. On the other hand, learned counsel for the Workman Union has referred to a Seven Judges Bench decision of Hon'ble the Apex Court in the case of **Bangalore Water Supply & Sewerage Board & Anr. vs. A.Rajappa & Others**, AIR 1978 SC 553, and has submitted that this judgment is still in force. Learned Counsel further submits that only because this point has been referred to a larger Bench, the decision of Hon'ble the Apex Court in the case of Bangalore Water Supply & Sewerage Board & Anr(supra) does not become in-operative. I am in agreement with this argument of learned counsel for the Workman Union, hence the argument of learned counsel for the Management that since this issue has been referred to Larger Bench of Hon'ble the Apex Court, hence the principle laid down in the case of Bangalore Water Supply & Sewerage Board & Anr(supra) cannot be applied has no leg to stand and is rejected accordingly. The following observation of Hon'ble the Apex Court in **Bangalore Water Supply & Sewerage Board & Anr** (supra) is being reproduced as follows:-

Bangalore Water Supply & Sewerage Board & Anr. vs. A.Rajappa & Others, AIR 1978 SC 553, wherein it has been held that

" Research Does research involve collaboration between employer and employee ? It does. The employer is the institution, the employees are the scientists, para-scientists and other personnel. Is scientific research service ? Undoubtedly it is. Its discoveries are valuable contributions to the wealth of the nation. Such discoveries may be sold for a heavy price in the industrial or other markets. Technology has to be plate for and technological inventions and innovations may be patented and sold. In our scientific and technological age nothing has more cash value, as intangible goods and invaluable services, than discoveries. For instance, the discoveries of Thomas Alva Edison made him fabulously rich. It has been said that his brain had the highest cash value in history for he made the world vibrate with the miraculous discovery of recorded, sound. Unlike most inventors, he did not have to wait to get his reward in heaven; he received, it munificently on this gratified and grateful earth, thanks to conversion of his inventions into, money a plenty. Research benefits industry. Even though a research institute may be a separate entity disconnected from the many industries which funded the institute itself, it can be regarded as an Organisation, propelled by systematic activity, modeled on co-operation between employer and employee and calculated to throw up discoveries and inventions and useful solutions which benefit individual industries and the nation in terms of goods and services and wealth. It follows that research institutes, albeit run without profit-motive, are industries."

11. Section 2(J) of the Industrial Disputes Act, 1947 is also being reproduced as follows:-

[(j) "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen;

12. Hence in the light of the principle laid down by Hon'ble the Apex Court in the case of **Bangalore Water Supply & Sewerage Board & Anr** (Supra) the Management of Regional Research Laboratory is held to be an industry under Section 2J of the Industrial Disputes Act, 1947 and **Issue No.1 is answered accordingly.**

13. **ISSUE NO.2:-**

The dispute has been raised by the Workman Union of Regional Research Laboratory and Dainik Vetan Bhogi Karmachari Sangh. Names of the applicant workman is in the annexure to the reference. The statement of claim have been jointly filed by 95 applicant/workmen under their signatures. They have jointly engaged the services of their counsel. Hence the dispute whether the Union has locus standi to raise the reference loses significance in such a situation. Moreover the Union is a registered Union. Applicant No.1 is the President of the Union, hence has no locus standi to raise the present dispute also. **Issue No.2 is answered accordingly.**

14. **ISSUE No.3 & Issue No.4:-**

The respective pleadings of the parties on this issue has been detailed earlier. The workmen who have filed their affidavit have consistently stated that they have been working since last 10 to 12, 13 to 15 and 15 to 20 years from the date of filing of their affidavit before this Tribunal i.e. May-2009 to July-2009. Also that when the Management did not regularize them, they raised dispute before Assistant Labour Commissioner. The workman Witness Awdhesh Kumar Sisodiya who happens to be the President of the Workmen Union and other workmen witness Ramesh Chandra Raikwar who has been cross-examined by Management have stated that the workmen Awdhesh Kumar Sisodiya has been working since 1989 continuously till 16-9-2004 when he was illegally terminated from services whereas witness Ramesh Chandra Raikwar has submitted that he has been working since last 10 years as skilled labour with the management and is still working. Workmen Awdhesh Kumar Sisodiya has further stated that this institute was established in the year 1982. He and other workmen have been working since then continuously but they have not been granted service benefits admissible to regular employees of the Management. Hence they established a Union in the year April-2004 of which the workman Shri Awdhesh Kumar Sisodiya is the President and raised the dispute before the Assistant Labour Commissioner. Thereafter, the Management terminated the services of the President of the Union Shri Awdhesh Kumar Sisodiya on 16-9-2004 ignoring his continuous service for the last 15 years without any notice or compensation.

15. This witness has stated that he had been working as a Helper on machine. He was interviewed for the job in the year 1989. He was not issued any appointment offer in writing. He was paid on monthly basis. He and other workmen were paid by Management. He further states that the other workmen were engaged by whom he does not know and that the Management wanted to transfer his services and services of applicant workmen to private agencies but they refused. He pleads ignorance that the Management used to engaged private security agencies for security, housekeeping, cleaning, horticulture, canteen and guest house services.

16. The workman witness Shri Ramesh Chandra Raikwar also states that he has been working as a skilled labour since last 10 years. He admits in his cross-examination that he had not filed any written job application with the Management. His name was not sponsored by any Employment Exchange. He further states that he was appointed by Management of Regional Research Laboratory. He is still continuing with the Management. He does not know whether his provident fund is being deposited with the management of Regional Research Laboratory or by contractor. Another workmen witness Shri Chandrakant Bhatt examined by the workman Union has stated that he was appointed on 6-5-1997 as Project Assistant by Management. He was issued appointment letter and has been continuously working with the Management but has not been granted benefits admissible to regular employees. He has proved his appointment order and appointment letter. He states in his cross-examination that he was appointed for every six months, he was reappointed and this way his appointment is continuing. He further states that research work goes on in different Projects after completion of one project he allotted another. He also states that he does not know that services of canteen, security, house keeping cleaning, horticulture and guest house have been given to contractors. He pleads ignorance of the fact that as to who deposits his provident fund.

17. ON the other hand, the Management witness Somnath Mazumdar states that these applicant workmen are in fact contractor employees. Contracts have been given to different security agencies on day to day basis for security, housekeeping, cleaning, canteen, guest house and horticulture. This witness has proved tender documents, work orders and payment bills. Another Management witness Radheshyam Waghmare has also supported the case of the Management and corroborated the statement of previous Management. He denies that contractors were not engaged before 2006. Two contractors Surendra Verma owner of M/s Sharamik Kalyan Samiti Security Agency and Vipin Kohli Partner of M/s Trio Security Intelligence Agency have filed affidavit as Management witness. They have appeared for cross-examination, hence their statements cannot be read in favour of Management. However, the documents which these two contractors have referred i.e. Exhibit M-6 and Exhibit M-8 is the workman agreement of guest house and canteen for the year 2006. Exhibit M-22, M-29 and M-30 also relate for the year 2006. Exhibit M-41 is for the period after 2008.

18. An another Management witness Hemant Kumar Malviya, Proprietor of Security Agency M/s of Bharat Security Services who has been cross-examined by workman side has proved tender documents and work agreements relating to the year 2006.

19. Now a comparative analysis of oral statement of documents filed and proved by parties goes to show that Management has engaged security agency for the work of cleaning, horticulture, guest house, housekeeping and canteen services. The oldest contract document/work order filed and proved by management is of M/s Ravi Security which is of the year 1998. The case of the workman Union and the workman witness is that they were appointed since 1989 and before to 1997 and have been working continuously with the management. It also comes out from evidence on record that some of the applicant workman have been working

and rendering service other than those service of cleaning etc. which was taken by Security Agency, according to the management witness. If so, the factual situation arises from the evidence on record is that the applicant workman were first engaged as a daily wager by management . They continued as daily wager for the last 10 to 15 years, thereafter the Management decided to out source the witness regarding cleaning, security, house keeping, guest house, horticulture and canteen services and work contracts were awarded to different contractors. Also it comes out that the services of the applicant workman who were earlier working as daily wagers engaged by Management of Regional Research Laboratory were transferred to different contractors at different times who were awarded work agreements for works mentioned earlier and thus applicant workmen who were engaged as daily wagers since 10 to 15 years in activities , other activities outsourced, continued with the Management of Regional Research Laboratory.

20. In the light of the proved fact that the applicant workman continuously worked for 10 years or more with the Management as a daily wager, they were entitled to notice/compensation as provided under Section 25F and Section 25G of the Industrial Disputes Act, 1947, before their services were disengaged by Management and some of the applicant workman were engaged by contractors for activities as mentioned in their work agreements. The action of the Management in disengaging their services without any notice/compensation is held to be in violation of Section 25F and Section 25G of the Industrial Disputes Act, 1947. On the basis of above, mentioned facts, **Issue No.3 and Issue No.4 are answered accordingly.**

21. ISSUE NO.5:-

There is on record a Scheme named as Casual Workers Absorption Scheme, 1990 applicable on casual workers of CSIR which provide guidelines for absorption of casual workers in different CSIR Laboratory which is issued vide CSIR Letter No.1/(20/86-E II) dated 4-10-1990 and CSIR Letter No.3/(58/87-E II/V) dated 30-3-1990. According to this Scheme, casual workers engaged initially through Employment Exchange and other wise than through employment exchange on the date of issue of the instruction i.e. on 1-1-1990 completing 240 days in the immediately preceding calendar year are entitled to be absorbed as per normal procedure of recruitment prescribed for the post including qualifying in the Trade Test if any. There is nothing on record that those applicant workmen who were covered under this Scheme were considered for absorption under this Scheme by management or not? One of them is the President of the Union who has been working since 1989. Hence such workmen are entitled to be considered for their absorption in the light of these Scheme.

22. So far as the remaining workmen are concerned, since they were not appointed by following any recruitment procedure, hence they can be held entitled only to a lump sum compensation to be paid by the Management to them. Keeping in view the facts and circumstances of the case in hand, including the period of tenure these applicant workmen have worked with the management, a lump sum compensation of Rs.2,00,000(Rs.two lakh only) each in lieu of and as final settlement of their claims to be paid by the Management will meet the ends of justice. The applicant workman are held entitled accordingly. **Issue No.5 is decided accordingly.**

23. On the basis of the above discussion, following award is passed:-

A.The demand of Shri Awadhesh Kumar Sisodia for his reinstatement and issuing of appointment letters to him and 94 others(as per list enclosed) by the Regional Research Laboratory and declaration of them as permanent employees is held not legal and justified.

B.Each workmen is held entitled to a lump sum compensation of Rs.2,00,000(Rs.two lakh only) in lieu of and as final settlement of their claims within 30 days from the date of publication of award in the official gazette, failing which interest @6% p.a. from the date of notification till realization.

C.the workman covered in the guidelines for absorption of casual workers in different CSIR Laboratory issued vide CSIR Letter No.1/(20/86-E II) dated 4-10-1990 and CSIR Letter No.3/(58/87-E II/V) dated 30-3-1990 are held entitled to be considered for absorption with the management.

24. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 14-11-2022

नई दिल्ली, 17 फरवरी, 2023

का.आ. 250 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार क्षेत्रीय निदेशक, केन्द्रीय भूजल बोर्ड (निकट), पचपेड़ी नाका, रायपुर- (छ.ग.), के प्रबंधन के संबद्ध नियोजकों और श्री रुकेश बघेल, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. CGIT/LC/R/1/2011) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/133/2010-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th February, 2023

S.O. 250.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/1/2011) of the Central Government Industrial Tribunal cum Labour-Jabalpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Regional Director, Central Ground Water board (NCCR), Pachpedi Naka, Raipur-(C.G.), and Shri Rukesh Baghel, Worker, which was received along with soft copy of the award by the Central Government on 17/02/2023.

[No. L-42012/133/2010-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, JABALPUR

No. CGIT/LC/R/1/2011

Present: P. K. SRIVASTAVA, H.J.S..(Retd)

Shri Rukesh Baghel
Behind Madhua Pille Schoo,
New Ganj Mandi,
Mandi Gate Pandri Tarai
Raipur(C.G.)

Versus

....Workman

The Regional Director,
Central Ground Water board(NCCR)
Reena Apartment
2nd Floor Pachpedi Naka,
Raipur(C.G.)

....Management

AWARD

(Passed on this 18-10-2022)

As per letter dated 15-12-2010 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-42012/133/2010-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Regional Director, Central Ground Water Board, Raipur(C.G.) in verbal terminating the services of Shri Rukesh Baghel w.e.f. April, 2009 is legal and justified?if not to what relief the workman is entitled to and from what date? .”

1. After registering the case on the basis of reference, notices were sent to the parties

2. The case of the workman as stated in his statement of claim is that he was first appointed as safaiwala with the Management in the year 1995 by management against vacant and regular post and worked continuously till April-2009 when his services were orally terminated without any notice or compensation and without any just and reasonable cause. The procedure of last come and first go was not followed in his termination; hence his termination is bad in law. Accordingly he has prayed that holding his termination bad in law, he be held entitled to be reinstated with all back wages and benefits. The case of the Management is mainly that firstly the Management of Central Ground Water Board, Raipur is not an industry as defined in Industrial Disputes Act, 1947, Secondly, the workman was engaged by management in this office on part time basis for cleaning work as and when required. This engagement was purely on casual basis. The Management also admits the workman worked during the period from 1995 to April-2009 but as a daily wagger was paid on daily basis. The Management defended that the workman was in engagement of Management for a period of 240 days or more in any year till date of termination of his services. Hence according to the Management, the reference deserves to be answered against the workman.

3. The workman has filed his affidavit as his examination in chief and has been cross-examined by the Management.

4. The Management has filed affidavit of C.Paul Prabhakar, Regional Director as his examination in chief. He has been cross-examined by workman and management has further filed copies of memo issued by Government of India, Ministry of Water Resources stating that this Management is a non-commercial office, contingent bills 50 in number regarding payments made by the Management to the workman and other daily wagers during the period.

5. I have heard arguments of learned Counsel shri S.K.Mishra for workman and Shri P.Shankaran, learned counsel for the Management. I have gone through the record as well.

6. The reference itself is the issue for determination, in the case in hand.

7. The fact that the workman worked from 1995 till April-2000 is not disputed, what is disputed is that according to the workman he was appointed against a regular vacancy where as according to management he was a daily wagger casual labour paid on daily basis and according to the management he never completed 240 days in continuous service in any year.

8. The contingent bills around 50 in number show that firstly the workman was paid on monthly basis and secondly he was not paid according to the days he worked. These bills coupled with the statement of the workman on oath establish the fact that he was in continuous employment for 240 days in every year including the year preceding the date of his termination. It is also not disputed that he was not issued any prior notice before his recruitment nor was he paid any compensation. According to the management it decided the job of safaiwala to be taken by outsourcing through Agency, hence the workman was done away with the Management. ON the other hand, the Management witness as stated nothing to prove its case that the workman did not work continuously for 240 days, hence holding that the workman has successfully proved his continuous engagement for 240 days in every year including the date preceding the date of his termination has been terminated by Management without giving any notice or compensation, which is in violation of Industrial Disputes Act, 1947.

9. As regards the contention of the Management that it is not an industry as defined in Industrial Disputes Act, it cannot be accepted in the light of Seven Judges Bench of Hon'ble the Apex Court in the **Bangalore Water Institute and Sewerage Board Vs. Rajapaa and Another** (1978) SCC 548).

10. As regards the relief admissible to the workman, the judgment of Hon'ble the Chhattisgarh High Court in Writ Petition No.486/2013 has been referred to in this respect. This is with respect to the present Management and another workman who was a daily wagger who worked for five years as a daily wagger, he was awarded Rs.75,000/- as compensation in lieu of full and final settlement of his claims. The workman in this case in hand has worked for as many as 14 to 15 years from 1995 to 2009. Hence he is held entitled to double of the amount i.e. 1,50,000/- as full and final settlement of his claims. Only in the light of the facts that he was not appointed firstly against a sanctioned vacancy by following recruitment procedure.

11. On the basis of the above discussion, following award is passed:-

- A. **The action of the management of Regional Director, Central Ground Water Board, Raipur(C.G.) in verbal terminating the services of Shri Rukesh Baghel w.e.f. April,2009 is held to not just and proper.**
- B. **The workman is held entitled to a lump sum compensation of Rs.1,50,000/- in settlement of all his claims to be paid by the management within 30 days from date of**

publication of Award in the official gazette, failing which interest @ 6% per annum from the date of Award till payment.

12. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. S RIVASTAVA, Presiding Officer

DATE: 18-10-2022

नई दिल्ली, 20 फरवरी, 2023

का.आ. 251 .—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंधक, मैसर्स इरकॉन इंटरनेशनल लिमिटेड, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री बाबूलाल सुमन, कामगार, द्वारा श्री बलदेव सिंह, लेबर एवाइजर, डडवाड़ा, कोटा जंक्शन, के बीच अनुबंध में निर्दिष्ट औद्योगिक न्यायाधिकरण कोटा, विवाद में औद्योगिक न्यायाधिकरण कोटा, पंचाट आई टी (केन्द्रीय) 2/ 2001 (सीआईएस-57/2014) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/28/2001-आईआर (बी -1)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 20th February, 2023

S.O. 251.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award I.T. (Central)- 02/2001(CI-57 /2014) of the Industrial Tribunal Kota, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Manager, M/s. Ircon International Ltd., New Delhi, and Shri Babulal Suman, worker, through Shri Baldev Singh, Labour advisor, Dadwada, Kota, Junction, which was received along with soft copy of the award by the Central Government on 17/02/2023.

[No. L-42012/28/2001-IR (B-1)]

D. K. HIMANSHU, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा,(राज.) पीठासीन अधिकारी —श्री महेश पुनेठा, आर. जे.एस. (जिला जज संवर्ग)

निर्देश प्रकरण क्रमांक:औ.न्या.(केन्द्रीय)-2/2001(सीआईएस-57/2014)

(सीएनआर-आरजेकेटी060000252001)

दिनांक स्थापित:29/03/2001

प्रसंग: भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश क.

एल-41012/28/2001/आईआर.(बी-1) दिनांक

19/03/2001

निर्देश/विवाद अन्तर्गत धारा 10(1)(घ) एवं उपधारा 2(क)

औद्योगिक विवाद अधिनियम, 1947

मध्य

बाबूलाल सुमन पुत्र श्री कन्हैयालाल सुमन द्वारा बलदेव सिंह,
लेबर एवाइजर, डडवाड़ा, कोटा जंक्शन।

...प्रार्थी श्रमिक

एवं

मैनेजर, मै. इरकॉन इंटरनेशनल लि., पालिका बाजार, आर.के. पुरम्, नई दिल्ली-66 ...अप्रार्थी नियोजक

उपस्थित

प्रार्थी श्रमिक की ओर से प्रतिनिधि:-

श्री नरेन्द्र सिंह चौधरी

अप्रार्थी नियोजक की ओर से प्रतिनिधि:-

श्री एम.सी. गुप्ता

::अधिनिर्णयः::

दि.: 15/09/2022

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासांगिक आदेश दिनांक 19/03/2001 के जरिये निम्न निर्देश विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे आगे "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10(1)घ) एवं उपधारा 2(क)के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है:-

"Whether the termination of services of Shri Babulal Suman S/o Shri Kanhiyalal from 1/4/97 by the management of M/s. Ircon International Ltd. is justified? If not, what relief Shri Babulal is entitled and from which date?"

2— उक्त विवाद, न्यायाधिकरण में रेफर होने पर पंजीबद्ध कर पक्षकारों को उपस्थिति बाबत नोटिस जारी किए गए। नोटिस की पालना में प्रार्थी श्रमिक द्वारा उपस्थित होकर स्टेटमेन्ट ऑफ क्लेम न्यायाधिकरण के समक्ष प्रस्तुत कर संक्षिप्त: यह कथन किया गया है कि उसे अप्रार्थी नियोजक इरकॉन इंटरनेशनल लि.(पुराना नाम इण्डियन रेलवे कंस्ट्रक्शन कं.लि.) न्यू दिल्ली द्वारा दिनांक 14/10/91 को कोटा नागदा प्रोजेक्ट में खल्लासी के पद पर नियुक्ति दी गई थी व बाद में प्रार्थी को इसी ग्रेड 196-232 में नियमित किया गया व तदुपरान्त उसका कार्य संतोषजनक पाने पर एस.एस. फिटर वायरमेन के पद पर पदोन्नत किया गया। अप्रार्थी के कोटा के स्थानीय ग्रुप मैनेजर ने दिनांक 30/12/1995 को मौखिक बतलाया था कि कोटा-नागदा प्रोजेक्ट का कार्य पूरा होने वाला है और प्रार्थी को जनवरी 95 से कभी भी हटाया जा सकता है इस पर उसने सिविल न्यायालय, कोटा में वाद लगाया जिस पर उसे स्टे दिया गया। इस वाद में अप्रार्थी ने न्यायालय में लिखित आवेदन किया था कि अगर वह प्रार्थी को हटायेगा तो औद्योगिक विवाद अधिनियम, 1947 के प्रवधानों के अनुरूप ही हटायेगा, परन्तु अप्रार्थी ने दिनांक 01/04/1997 से कोटा का स्थानीय कार्यालय बंद कर दिया एवं प्रार्थी को कार्य देना भी बंद कर दिया। अप्रार्थी के यहाँ 300 से अधिक श्रमिक कार्यरत रहते हैं व कोटा-नागदा प्रोजेक्ट में करीब दो सौ श्रमिक कार्यरत थे, जिन्हें शनैः शनैः दूसरे कार्यस्थलों पर ट्रांसफर कर दिया, किन्तु प्रार्थी को बिना कोई सूचना के बेरोजगार बना दिया गया। अप्रार्थी ने सभी कर्मचारियों के भविष्य निधि के लिए एक इरकॉन प्रोविडेंट फण्ड ट्रस्ट बना रखा है प्रार्थी भी उसका सदस्य था एवं उसका नं. 5511 था। अप्रार्थी अपने अधीन कर्मचारियों की वरिष्ठता सूची बना कर रैगुलर करता था और उस वरिष्ठता सूची के आधार पर ही छंटनी करनी थी परन्तु अप्रार्थी ने मनमाने ढंग से प्रार्थी को नौकरी से हटा दिया जो कि अवैध है। प्रार्थी की सेवाएं अप्रार्थी के अधीन साढ़े 5 साल की थी और हर वर्ष में उसने 240 दिन से अधिक कार्य किया है। अप्रार्थी द्वारा बिना कोई नोटिस अथवा नोटिस वेतन या क्षतिपूर्ति भत्ता दिये दिनांक 01/04/97 से नौकरी से हटा दिया गया जो अधिनियम की धारा 25-एन का उल्लंघन है। अंत में प्रार्थना की गई है कि प्रार्थी को पिछले सम्पूर्ण वेतन सहित सेवा में बहाली का अनुतोष प्रदान किया जावे।

3— अप्रार्थी नियोजक की ओर से उक्त क्लेम का जवाब प्रस्तुत कर यह प्रतिवाद किया गया है कि उनकी कम्पनी भिन्न भिन्न स्थानों पर अलग-अलग व्यक्तियों से कानूनानुसार अनुबंध करती है, तथा अनुबंध के कार्य को स्थानीय स्तर पर पूरा करती है। प्रार्थी की नियुक्ति खल्लासी के पद पर अप्रार्थी संस्थान द्वारा कोटा-नागदा एक्सेल काउन्टर प्रोजेक्ट के अनुबन्ध(रेल मंत्रालय, भारत सरकार) के कार्य को पूर्ण करने हेतु की गयी थी जो अनुबंध कार्य दि.19/02/97 को पूर्ण हो गया था। प्रार्थी द्वारा सिविल न्यायालय के समक्ष वाद प्रस्तुत किया गया था जो खारिज हो गया जिसके विपरीत कथन करने से प्रार्थी बाधित है। अप्रार्थी की कोटा यूनिट का क्लोजर हो जाने से विधिवत रूप से नोटिस जारी कर प्रार्थी को एक माह के नोटिस एवज में वेतन राशि, मुआवजा राशि तथा 01/03/97 से 27/03/97 तक के वेतन जरिये ड्राफ्ट क्रमांक 006856/25.3.97 जरिए रजि.एडी डाक भेजकर विधिवत छंटनी की गयी, किन्तु प्रार्थी ने यह राशि प्राप्त नहीं की। प्रार्थी द्वारा 240 दिन से अधिक की सेवाएं अप्रार्थी के यहाँ देना स्वीकार है, किन्तु उसे उपरोक्तानुसार

विधि अनुसार छंटनी कर सेवा से पृथक किया गया है। अतिरिक्त आपत्तियों में यह कथन किया है कि प्रार्थी अब भी किसी भी समय अपने छंटनी आदेश की राशि प्राप्त कर सकता है जो अप्रार्थी अदा करने के लिए सदैव तत्पर है। अन्त में प्रार्थना की गयी है कि प्रार्थी का क्लेम निराधार तथ्यों का होने से सव्यय निरस्त किया जावे।

4— साक्ष्य में स्वयं प्रार्थी श्रमिक बाबूलाल सुमन तथा अप्रार्थी साक्षी प्रमोद कुमार, संयुक्त महाप्रबन्धक के शपथ-पत्र प्रस्तुत हुए जिनसे एक-दूसरे पक्ष द्वारा जिरह की गयी। उभयपक्ष की ओर से दस्तावेजी साक्ष्य भी प्रस्तुत की गयी जिसका यथासमय उल्लेख किया जावेगा।

5— उभयपक्ष के प्रतिनिधिगण की बहस सुनी गयी जो बहस मुख्यतः उनके द्वारा प्रस्तुत अपने-अपने अभ्यावेदनों के अनुरूप ही रही है। बहस समर्थन में प्रार्थी पक्ष की ओर से न्यायिक दृष्टांत **लाल मोहम्मद एवं अन्य बनाम इण्डियन रेलवे कंस्ट्रक्शन कं.लि. एवं अन्य—1999 एलएलआर 100(एससी)** तथा अप्रार्थी पक्ष की ओर से न्यायिक दृष्टांत **सुमेर सिंह बनाम दी चीफ कंजरवेटर ऑफ फोरेस्ट, हरियाणा एवं अन्य—2010 (124) एफएलआर 849(पंजाब एवं हरियाणा)** का अवलम्ब लिया गया है।

6— उभय पक्ष द्वारा की गयी बहस पर मनन किया गया, पत्रावली पर उपलब्ध साक्ष्य व सामग्री का ध्यानपूर्वक परिशीलन किया गया तथा उनकी ओर से प्रस्तुत न्यायिक दृष्टांतों का अवलोकन कर ससम्मान उचित मार्ग दर्शन प्राप्त किया गया।

7— न्यायाधिकरण के समक्ष उभय पक्ष की ओर से प्रस्तुत अभ्यावेदनानुसार यह स्वीकृत स्थिति है कि प्रार्थी श्रमिक, अप्रार्थी नियोजक का कर्मकार रहा है और उसने अपनी नियोजनावधि में अप्रार्थी के यहाँ 240 दिन से भी अधिक समय तक कार्य कर लिया था। अब विनिश्चयार्थ प्रश्न यही शेष है कि क्या अप्रार्थी नियोजक द्वारा प्रार्थी श्रमिक को विधिवत छंटनी कर सेवा से पृथक किया जाना उचित एवं वैध है? प्रार्थी श्रमिक ने साक्ष्य में प्रस्तुत अपने शपथ-पत्र में स्टेटमेन्ट ऑफ क्लेम में वर्णित तथ्यों की ही पुनरावृत्ति की है। प्रार्थी का जिरह में यह स्वीकारोक्ति कथन रहा है कि प्रतिपक्षी कंपनी ने कोटा नागदा प्रोजेक्ट का काम लिया था जो रेलवे द्वारा दि.27/01/89 को कांट्रैक्ट पर दिया था। उसे प्रदर्श डबल्यू.1 के द्वारा खल्लासी के पद पर लगाया गया था तथा कोटा के प्रोजेक्ट के अधिकारी असिस्टेन्ट मैनेजर द्वारा काम पर लगाया गया था। प्रार्थी की यह भी स्वीकारोक्ति रही है कि उसने सेवानिवृत्ति आदेश के विरुद्ध सिविल न्यायालय में दावा प्रस्तुत किया था जिस पर जारी स्थगन दि.22/03/97 को खारिज हो गया और उसका दावा भी खारिज हो गया जिसके विरुद्ध कोई अपील नहीं की। इसका यह भी स्वीकारोक्ति कथन रहा है कि प्रतिपक्षी कंपनी का रेलवे अनुबन्ध का कार्य दि.19/02/1997 को पूर्ण हो गया था जिसका पत्र प्रदर्श एम.1 है। इसने इस बात से पता नहीं होना कथन किया है कि प्रतिपक्षी ने क्लोजर का नोटिस प्रदर्श एम.2 भिजवाया था या नहीं जोकि इनकी सेवानिवृत्ति व टर्मिनेशन बाबत था। इसने प्रदर्श एम.5 सेवा छंटनी आदेश मय प्रदर्श एम.6 चैक के रजि.डाक से इसे भिजवाना पता नहीं होना कथन किया है। प्रार्थी की यह भी स्वीकारोक्ति रही है कि उसका पता प्रदर्श एम.5 में ए से बी भाग में सही लिखा हुआ है। प्रार्थी की यह भी स्वीकारोक्ति रही है कि प्रतिपक्षी का कार्यालय कोटा जंक्शन पर था, उसे बंद करने की सूचना प्रदर्श एम.10 राज. पत्रिका में ए से बी भाग में छपवायी थी। प्रार्थी का जिरह में यह भी स्वीकारोक्ति कथन रहा है कि कोटा प्रोजेक्ट के काम के लिए नियुक्त किये गये किसी भी श्रमिक को प्रतिपक्षी द्वारा किसी अन्य प्रोजेक्ट में काम हेतु नहीं भेजा गया। इसने इस बात से इन्कारी की है कि श्रम आयुक्त, केन्द्रीय कोटा के यहाँ इसने चैक प्रदर्श एम.6 लेने से मना कर दिया हो। उसका यह भी कथन रहा है कि प्रार्थी प्रदर्श एम.5 व 6 में वर्णित राशि आज भी लेने को तैयार नहीं है। यह सही है कि प्रदर्श एम.6 पर दिनांक 25/03/97 की तारीख अंकित है और उस समय इसका वेतन 1630/—रु. था, किन्तु कम्पनसेशन की तीन माह की वेतन राशि 4890/—थी या नहीं, पता नहीं। इसने प्रदर्श एम.5 में वर्णित राशि के अतिरिक्त अन्य कोई देय राशि के सम्बन्ध में प्रतिपक्षी कंपनी को कोई पत्र नहीं लिखा। प्रार्थी ने इसकी सेवायें दि.26/03/97 से समाप्त किया जाना व इसके बाद का कोई कागज इसके पास नहीं होना स्वीकार किया है।

इस बाबत अप्रार्थी नियोजक साक्षी प्रमोद कुमार, संयुक्त महाप्रबन्धक ने साक्ष्य में प्रस्तुत शपथ-पत्र में जवाब में वर्णित तथ्यों की पुनरावृत्ति की है। साक्षी का जिरह में स्वीरोक्ति कथन रहा है कि प्रोजेक्ट 1989 में शुरू हुआ था जो 1997 तक, 8 साल तक चला था, प्रार्थी दि.14/10/1991 को प्रदर्श डबल्यू.1 के द्वारा लगा

था जिसमें तीन माह के अस्थाई तौर पर दैनिक वेतन पर रखे जाने का उल्लेख है। साक्षी की यह स्वीकारोक्ति रही है कि प्रार्थी ने इनके यहाँ 6 साल तक काम किया है तथा उसे प्रदर्श एम.5 के द्वारा दि. 26/03/97 से हटाया गया है, किन्तु आगे यह भी स्वीकारोक्ति की है कि श्रमिकों की छंटनी की गयी थी जिसके सम्बन्ध में राज्य सरकार व श्रम विभाग को सूचना दी थी और सभी 5 श्रमिकों की छंटनी की थी तथा छंटनी के समय प्रार्थी को नोटिस वेतन का ड्राफ्ट 8506/—रु. का प्रदर्श एम.5 भेजा गया था जो प्रार्थी ने स्वीकार नहीं किया, जबकि वे आज भी भुगतान करने के लिए तैयार हैं। साक्षी का यह भी कथन रहा है कि 1994 में प्रार्थी बाबूलाल को सराहनीय कार्य के लिए प्रदर्श डबल्यू.2 में उल्लेखित पदोन्नति दी गयी थी जिसमें उल्लेखित कर दिया था कि यह पदोन्नति स्थाई व नियमित नहीं है। अब इस सन्दर्भ में प्रदर्श एम.2 का अवलोकन करें तो यह पत्र अप्रार्थी के कोटा स्थित प्रोजेक्ट मैनेजर द्वारा सचिव, श्रम विभाग, राज. सरकार को दि.26/03/97 को प्रेषित किया गया है जिसमें संलग्न एनक्सर में वर्णितानुसार लिये गये कांटेक्ट कार्य के समाप्त होने का उल्लेख है और अप्रार्थी द्वारा इसमें उल्लेखित पांच श्रमिकगण जिनमें प्रार्थी भी सम्मिलित है, की अधिनियमान्तर्गत विधिवत नोटिस वेतन, छंटनी मुआवजे व अन्य देय वेतन राशि दिये जाने का उल्लेख है तथा प्रदर्श एम. 3 व 4 रजिस्ट्री व प्राप्ति की रसीद है। प्रदर्श एम.5 प्रार्थी श्रमिक का सेवा छंटनी का आदेश है जिसमें प्रार्थी के नोटिस वेतन, छंटनी मुआवजे व 27 मार्च, 97 तक के वेतन की बकाया राशि कुल 8506/—रु. उल्लेखित है जो उसे बैंक ड्राफ्ट प्रदर्श एम.6 के जरिये रजिस्ट्री एम.7 से भेजा गया है। प्रार्थी ने इनकी प्राप्ति होने से पता नहीं होना कहा है, किन्तु उसकी यह स्पष्टतः स्वीकारोक्ति रही है कि प्रदर्श एम.5 में उल्लेखित पता उसी का है जो सही है। प्रार्थी की यह स्पष्टतः स्वीकारोक्ति भी रही है कि अप्रार्थी का कांटेक्ट कार्य समाप्ति पर अप्रार्थी कार्यालय बंद किये जाने का प्रकाशन राज. पत्रिका प्रदर्श एम.10 में अप्रार्थी द्वारा करवाया गया था। प्रार्थी का जिरह में रहा यह कथन कि वह आज भी उक्त नोटिस वेतन व छंटनी मुआवजा व अन्य राशि लेने को तैयार नहीं है, से यही प्रकट होता है कि प्रार्थी श्रमिक द्वारा जानबूझकर उसे देय नोटिस वेतन, छंटनी मुआवजे व अन्य देय वेतन राशि को नहीं लेकर टाला गया जो किसी भी रूप में उचित नहीं है। इस प्रकार प्रार्थी की उक्त मौखिक व दस्तावेजी साक्ष्य से यह भली-भाँति सिद्ध है कि उनके विभाग के कोटा स्थित कांटेक्ट कार्य समाप्ति पर प्रार्थी सहित कुल 5 श्रमिकगण की छंटनी की गयी थी जो अधिनियम की धारा 25—एफ की विधिवत पालना करके की गयी थी, अतः ऐसी स्थिति में अब प्रार्थी किसी अनुतोष का अधिकारी घोषित होने योग्य नहीं है व सम्प्रेषित निर्देश इसी अनुरूप उत्तरित होने योग्य है। प्रार्थी पक्ष की ओर से प्रस्तुत न्यायिक दृष्टांत हस्तगत मामले के तथ्यों से भिन्नता लिए हुए होने से प्रार्थी को उससे कोई मदद नहीं मिलती, जबकि अप्रार्थी पक्ष द्वारा प्रस्तुत न्यायिक दृष्टांत अप्रार्थी नियोजक के प्रकरण को पुष्ट करता है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा प्रासांगिक आदेश दिनांक 19/03/2001 के जरिये सम्प्रेषित निर्देश/रेफेन्स विवाद को इसी अनुरूप उत्तरित किया जाता है कि अप्रार्थी नियोजक मैसर्स इस्कॉन इन्टरनेशनल लि.(पुराना नाम इण्डियन रेलवे कंस्ट्रक्शन कं.लि.) न्यू दिल्ली द्वारा प्रार्थी श्रमिक बाबूलाल सुमन को अधिनियमान्तर्गत अप्रार्थी नियोजक के छंटनी आदेश दिनांक 26.03.1997 (रेफरेंस में वर्णितानुसार दिनांक 01/04/1997) के द्वारा विधिवत छंटनी कर सेवा से पृथक किया जाना उचित एवं वैध है, अतः प्रार्थी श्रमिक, अप्रार्थी नियोजक से किसी प्रकार का कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

महेश पुनेठा, न्यायाधीश

नई दिल्ली, 22 फरवरी, 2023

का.आ. 252 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया एयर ट्रांसपोर्ट सर्विसेज लिमिटेड. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह-श्रम न्यायालय अहमदाबाद, के पंचाट (संदर्भ सं. 62/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.01.2022 को प्राप्त हुआ था।

[सं. एल-11012/20/2018-आईआर (सीएम-1)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 22nd February, 2023

S.O. 252.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 62/2018) of the Central Government Industrial Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure, in the industrial dispute between the Management of Air India Air Transport Service Ltd. and their workmen, received by the Central Government on 11/01/2023

[No. L-11012/20/2018 -IR (CM-1)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM -LABOUR COURT, AHMEDABAD

Present: Sunil Kumar Singh-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated 2nd January, 2023

Reference: (CGITA) No-62/2018

1. M/s. Air India Air Transport Services Ltd.,
1st Floor, Transport Workshop Building,
GSD Complex, Sahar, Andheri (East),
Mumbai-400099.
2. The Sr. Assistant General Manager-GH,
M/s. Air India Air Transport Services Ltd.,
SVP International Airport,
Terminal-4, Ahmedabad-380003.

... First Parties

V

Shri Aznan Khan Pathan,
4883/A, 16, New Block – B,
Panjalal Chali, Post Office,
Raikhad, Ahmedabad – 380001.

... Second Party

Adv. for the First Party : None
Adv. for the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-11012/20/2018-IR (CM-I) dated 18.07.2018 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of M/s. Air India Air Transport Services Ltd., Mumbai in terminating the services of Shri Aznan Khan Pathan, Customer Agent working at Ahmedabad vide letter No. AIATSL/AMD/CA-17885/326 dated 05.06.2017 is proper, legal and justified? If not, what relief he is entitled to and from which date and what other directions are necessary in this regard?”

1. The reference was received in this Tribunal on 02.08.2018. The Ministry had directed the party raising the dispute to file the statement of claim complete with relevant documents with the Tribunal within 15 days of receipt of this order of reference as per provision made under Rule 10 (B) of Industrial Disputes (Central) Rules, 1957. This order of reference had been sent to all the parties as well as this Tribunal through registered post by the Ministry. Therefore, it is inferred that the same had been delivered to all the parties including claimants.

2. Notice Exh.2 was issued by the Tribunal to all parties to appear and file statement of claim and written statement thereof. A period of more than 4 years has elapsed but none has appeared and filed the statement of claim as directed and expected by the Ministry. Thereafter again notice Exh.5 was served on all the parties as per acknowledgement Ex. 6 to 8 wherein the parties were asked to appear and to submit statement of claim/written statement on 02.01.2023, but for no avail. It appears that the Second Party / workman is not interested to proceed further in the matter.

3. In the considered opinion of this Tribunal, either the claimant of this dispute is not interested to prosecute the claim or the said dispute is no more in existence. Hence in absence of evidence, it is just & proper to pass an award as under : “the action of the management of M/s. Air India Air Transport Services Ltd., Mumbai in terminating the services of Shri Aznan Khan Pathan, Customer Agent working at Ahmedabad vide letter No. AIATSL/AMD/CA-17885/326 dated 05.06.2017 is proper, legal and justified. The workman is not entitled for any relief.”

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication U/s 17(1) of Industrial Disputes Act.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 22 फरवरी, 2023

का.आ. 253 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ सं. 46/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.02.2023 को प्राप्त हुआ था।

[सं. एल-20012/270/2003-आईआर (कोल-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 22nd February, 2023

S.O. 253.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.46/2003) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 08/02/2023.

[No. L-20012/270/2002 – IR (C-I)]
MANIKANDAN. N, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD.****Present :** Dr.S.K.THAKUR, _Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

REFERENCE NO 46 OF 2003.

PARTIES: : The Vice President,
National Coal Workers Congress ,
Sharma Mansion,,
PO; Kendua Bridge,PO:Kusuda, Dhanbad-826001

Vs.

The General Manager, (Personnel)
Sijua Area Area No. 5 of M/s BCCL,
PO: Sijua,Distt; Dhanbad - 826001
Order No. L-20012/270/2002-IR(C-I) dt. 13.06.2003

APPEARANCES:- :
On behalf of the workman/Union : : None .
On behalf of the Management : Mr.D.K.Verma, Ld. Advocate

State : Jharkhand Industry : Coal**Dated, Dhanbad, the 16th January, 2023****AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their **Order No. L-20012/270/2002-IR(C-I) dt. 13.06.2003**

SCHEDULE

“Whether the demand of the union for arrears payment for the period from 5.1.98 to Oct./Nov.2000 in respect of S/Sri Usman Mian and Taslim Mian upon re-fixation of their wages giving the benefit of SRRA is proper and justified? If so to what relief are the concerned workmen entitled ?”

1. This is a reference received from the appropriate Government to adjudicate if the claimants Usman Mian and Taslim Mian are entitled to get the benefit of SRRA with regard to arrear payment for the period from 05.01.98 to Oct/Nov. 2000 in the Company .If so what relief are the concerned workmen are entitled.

2 As narrated in the claim petition by the both the workmen namely S/Shri Usmal Mian and Taslim Mian were initially appointed as M/Loader on Piece Rated in Sendra Bansjora Colliery under Sijua Area of M/s BCCL .By virtue of Piece Rated employees they were granted annual increments which is called Special Piece Rated Allowance .Both the workmen passed the Sirdar Certificate of competency .From 5.01.1998 both the workmen were placed by the management to work as Mining Sirdars by virtue of said Competency Certificate granted by DGMS,Dhanbad

The SPRA (Special Piece Rated Allowance) which is treated as Basic wage for all purposes was not added to both the employees while fixing basic wage after conversion to Monthly rated from Piece Rated , after placing them in Mining Sirdar resulted in wrong/loss in terms of basic fixation. Against which they represented to the Management .The Management accordingly has advised the local management to add the said SPRA and re-fix basic in Tech & Sup –Grade “C” in respect of both the workmen .Accordingly, correct payment after adding the said SPRA was started from OctNovember,2000salary but the concerned workmen were not paid arrears from 5/1/98 to October/November 2000.For which the th eworken raised the Industrial Dispute .

3. Per contra The OP/Management in the background of the matter contended that fixation of basic of S/Shri Usman Mian and Taslim Khan has been done as per norms of the Company and protection of SP.R.A..They were regularized from Piece Rated to Monthly Rated in T & S Grade C .They are getting wages i.e., Basic plus DA plus SDA and UG etc as total emoluments .As per fixation their arrears have already been paid.

4. The matter of the issue went on merit after filing respective statements with counter by the both of the parties with filing of documents by both of the parties on their behalf to substantiate the contentions put forth by them. During the course of hearing of the proceedings the matter was fixed on evidence of the workmen. The facts transpired the workmen could not adduce the evidence which kept pending since 07.02.2005 .After resumption of the notices the case for fresh hearings resumed in 2019 but workmen did not turn up. .Ld. Advocate for the OP/Management stated that the workmen side representation has stopped since long as such hearing concluded . The workmen side stopped taking step in regular course of hearing although the hearing of the case went on uninterruptedly till final hearing on 12.04.2022.

5. Considering the provisions of the Industrial Dispute Act and in view of the facts and circumstances the Tribunal has held imperative to close the Reference as the workmen side left the proceeding in lurch without adjudicating the issue on finality .Accordingly , above Reference is closed being devoid of any merit. Since the workmen concerned are no longer interested to fight the case on merits .The workmen are awarded no relief.

Dr. S.K.THAKUR, Presiding Officer